

CONDOMINIUM PUBLIC REPORT

Prepared &
Issued by:

Developer EDWARD J. MACDOWELL and CHARLEEN NAOMI MACDOWELL
Address: P.O. Box 29, Kapaa, Kauai, Hawaii 96746

Project Name(*): KAAPUNI KAI
Address Kaapuni Road, Kapaa, Kauai, Hawaii

Registration No. 5283

Effective date: **March 29, 2004**

Expiration date: **April 29, 2005**

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, in any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

- ☐ PRELIMINARY: The developer may not as yet have created the condominium but has filed with the (yellow) Real Estate Commission minimal information sufficient for a Preliminary Public Report. A final Public Report will be issued by the developer when complete information is filed.
- ☒ FINAL: The developer has legally created a condominium and has filed complete information (white) with the Commission.
[X] No prior reports have been issued.
[] This report supersedes all prior public reports.
[] This report must be read together with
- ☐ SUPPLEMENTARY: This report updates information contained in the:
(pink)
[] Preliminary Public Report dated:
[] Final Public Report dated: _____
[] Supplementary Public Report dated:
- And [] Supersedes all prior public reports
[] Must be read together with Final Public Report
[] This report reactivates the Final public report(s) which expired on _____

(*) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

FORM: RECO-30 286/986/189/1190/892/0197/1098/0203/0104

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

[X] Required and attached to this report [] Not required - Disclosures covered in this report.
As Exhibit "G"

Summary of Changes from Earlier Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

[X] No prior reports have been issued by the developer.

[] Changes made are as follows:

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General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common Elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: EDWARD J. MACDOWELL and Phone: (808) 822 4444
Name*CHARLEEN NAOMI MACDOWELL
1070 Kuhio Highway
Business Address
Kapaa, Hawaii 96746

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A

Real Estate Broker*: VISION PROPERTIES, INC. Phone: (808) 822 4444
Name
1070 Kuhio Highway
Business Address
Kapaa, Hawaii 96746

Escrow: TITLE GUARANTY ESCROW SERVICES, INC. Phone: (808) 521-0211
Name
235 Queen Street, Condo Section
Business Address
Honolulu, Hawaii 96813

General Contractor*: US GUYS BUILDERS LLC** Phone: (808) 245 7788
Name
3385 Unahe
Business Address **ABC21795
Lihue, Hawaii 96766

Condominium Managing Agent* : To be self managed by the Association Phone: _____
Name of apartment owners **
Business Address **Upon compliance with all applicable condominium management laws

Attorney for Developer: STEVEN R. LEE Phone: (808) 246 1101
Name
4473 Pahe'e St., Suite L
Business Address
Lihue, Hawaii 96766

*For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

<input type="checkbox"/> Proposed		
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances:	Document No. 2003-263218
		Book Page
<input type="checkbox"/> Filed -	Land Court:	Document No.

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

(None)

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

<input type="checkbox"/> Proposed	
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances Condominium Map No. <u>3676</u>
<input type="checkbox"/> Filed -	Land Court Condo Map No

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

(None)

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

<input type="checkbox"/> Proposed		
<input checked="" type="checkbox"/> Recorded -	Bureau of Conveyances:	Document No. 2003-263219
		Book Page
<input type="checkbox"/> Filed -	Land Court:	Document No.

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

(None)

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

☐ Proposed ☐ Adopted ☒ Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents.** Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of common interests which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	-----	<u> </u>

*The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer**

☒ No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

☐ Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

☒ Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.

☐ Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit _____ contains further explanation regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: ☐ Monthly ☐ Quarterly
☐ Semi-Annually ☐ Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per ☐ Month ☐ Year

For Sub-leaseholds:

☐ Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:
☐ Canceled ☐ Foreclosed

☐ As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

☐ Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit _____ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: ☐ Monthly ☐ Quarterly
☐ Semi-Annually ☐ Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per: ☐ Month ☐ Year

☐ Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. Underlying Land:

Address: Kaapuni Road, Kapaa, Kauai, Hawaii

Tax Map Key: (TMK): (4) 4-3-003:023

☒ Address ☐ TMK is expected to change because each unit will receive a physical address after application for building permits to construct a farm dwelling or other substantial structure.

Land Area: 4.302

☐ square feet ☒ acre(s)

Zoning: Agricultural

Fee Owner: EDWARD J. MACDOWELL and CHARLEEN NAOMI MACDOWELL
 Name
P.O. Box 29,
 Address
Kapaa, Hawaii 96746

Lessor: N/A
 Name
 Address

C. **Buildings and Other Improvements:**

1. ☒ New Building(s)
☐ Conversion of Existing Building(s)
☐ Both New Building(s) and Conversion
2. Number of Buildings: 2 Floors Per Building Unit 1, one building, 1 floor; Unit 2, one building, 1 floor;
☐ Exhibit _____ contains further explanations
3. Principal Construction Material:
☐ Concrete ☐ Hollow Tile ☐ Wood
☒ Other metal and shade cloth

4. **Uses Permitted by Zoning:**

	No. of Apts.	Use Permitted by Zoning	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Agricultural	<u>*</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Other:	<u>2 (shade shed)</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/ these use(s) specifically permitted by the project's Declaration or Bylaws?
☒ Yes ☐ No

*NOTE: The subject property is within the State Land Use Agricultural District and is zoned Agricultural by the County of Kauai. "Farm Dwellings" and other structures appropriate to agricultural usage are permitted, subject to certain guidelines. See the disclosures on Page 20 of this Final Public Report and Exhibit "K", Farm Dwelling requirements.

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

- [X] Pets: See Bylaws Section 5.3 (9)
- [] Number of Occupants: _____
- [X] Other: An owner must engage in agriculture actively to be permitted to construct a residence
- [] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>Identify</u>
<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>16</u>	<u>shade</u>
<u>2</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>16</u>	<u>structure</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total number of Apartments: 2

***Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.**

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

Boundaries of Each Apartment: Per the Declaration of Condominium Property Regime, the boundaries of each apartment shall be the outer surface of the entire building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall not be deemed a part of the apartment, the same being deemed common elements.

Permitted Alterations to Apartments: Permitted alterations to apartments are as allowed by County of Kauai zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime will be required to disclose actual improvements as a matter of public record.

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by Section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has N/A elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 0** At least two (2) parking stall areas will be required in each units limited Common element

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		TOTAL
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>0</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>0</u>
Guest	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	
Unassigned	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	
Extra for Purchase							
Total Covered & Open:	0						

**There is ample room for parking of two or more vehicles on each units limited common element.

Each apartment will have the exclusive use of at least two (2) parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

- ☐ Commercial parking garage permitted in condominium project.
- ☐ Exhibit _____ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- ☒ There are no recreational or common facilities.
- ☐ Swimming pool ☐ Storage Area ☐ Recreation Area
- ☐ Laundry Area ☐ Tennis court ☐ Trash Chute/Enclosure(s)
- ☐ Other: _____

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

- ☒ There are no violations. ☐ Violations will not be cured.
- ☐ Violations and cost to cure are listed below. ☐ Violations will be cured by _____
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years):

N/A

11. Conformance to Present Zoning Code

- a. ☒ [X] No variances to zoning code have been granted.
☐ [] Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements:

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	X		
Structures	X		
Lot	X		

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interests:

1. Common Elements. Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

- ☒ [X] described in Exhibit E.
☐ [] as follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which use them, as described in the Declaration, are:

☒ described in Exhibit E.

☐ as follows:

3. Common Interests: Each apartment will have an undivided fractional interests in all of the common elements. This interest is called the "common interests." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

☒ described in Exhibit C.

☐ as follows:

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property on or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated December 12, 2003 and issued by Title Guaranty of Hawaii, Inc.

Developer represents that since the date of the aforesaid title report, there have been no further encumbrances.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[] There are no blanket liens affecting title to the individual apartments.

[X] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

Type of Lien

**Effect on Buyer's Interest and Deposit if Developer Defaults
or Lien is Foreclosed Prior to Conveyance**

MORTGAGE

LENDER HAS PRIORITY OVER A BUYER'S RIGHTS UNDER A SALES CONTRACT, AND HAS A RIGHT TO TERMINATE SALES CONTRACT UPON FORECLOSURE OF ITS MORTGAGE BEFORE AN APARTMENT SALE IS CLOSED. IN SUCH EVENT BUYER SHALL BE ENTITLED TO A REFUND OF ALL DEPOSITS, LESS ESCROW CANCELLATION FEES.

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

NONE

2. Appliances:

NONE

G. **Status of Construction and Date of Completion or Estimated Completion Date:**

Construction of all apartments is now complete. The paving of the common driveway is not completed. The concrete paving has been contracted for completion by a licensed contractor and all sums have been paid for completion of the concrete paving. (see exhibit "K", hereto). Pursuant to the aforesaid contract, the concrete paving will be completed by March 1, 2004.

H. **Project Phases:**

The developer ☐ has ☒ has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

IV. CONDOMINIUM MANAGEMENT

- A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliated is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report is:

☐ not affiliated with the Developer ☐ the Developer or the Developer's affiliate.
☒ self-managed by the Association of Apartment Owners ☐ Other

- B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit H contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

☒ None ☐ Electricity _____ Common Elements only _____ Common Elements & Apartments)

☐ Gas (_____ Common Elements only _____ Common Elements & Apartments)

☐ Water ☐ Sewer ☐ Television Cable

☐ Other _____

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate commission include but are not limited to:

- ☐ Notice to Owner Occupants
- ☒ Specimen Sales Contract
Exhibit B contains a summary of the pertinent provisions of the sales contract.
- ☒ Escrow Agreement dated November 24, 2003
Exhibit D contains a summary of the pertinent provisions of the escrow agreement.
- ☐ Other _____

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The developer delivers to the buyer a copy of:
 - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
 - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
 - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
 - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
 - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all the documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime, as amended.
 - C) Bylaws of the Association of Apartment Owners, as amended.
 - D) House Rules, if any.
 - E) Condominium Map, as amended.
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other n/a

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P.O. Box 541, Honolulu HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 5283 filed with the Real Estate Commission on January 20, 2004.

Reproduction of Report. When reproduced, this report must be on:

☐ YELLOW paper stock ☒ WHITE paper stock ☐ PINK paper stock

C. Additional Information Not Covered Above:

This is a condominium project, not a subdivision. Units purchased are not subdivided lots. To determine whether your expectations can be realized, you should carefully review the contents of this Report. You should also conduct your own investigations and ascertain the validity of information provided.

The prospective purchaser of unit 1 and unit 2 shall have the right to build one single family farm dwelling at purchaser's expense. The purchaser shall also, in such event, file the "as built" certificate within thirty days of completion of the farm dwelling in conformance with Section 514A-12, Hawaii Revised Statutes and record an amendment of the Declaration of Condominium Property Regime ("Declaration") to describe the farm dwelling. The County of Kauai Planning Department requires, in order to process the necessary permits for the construction of a farm dwelling and the processing of a farm dwelling agreement, authorization from at least 75% of the legal and equitable ownership of the entire project, consistent with the Declaration and the By-laws ("condominium documents"). In most cases a farm dwelling may not be constructed unless a unit owner demonstrates to the County his ability to derive income from his property, established and verified prior to any building permit approval.

Except as limited specifically by the condominium documents and subdivision restrictive covenants, all uses permitted in the agricultural zone are permitted. The prospective purchaser should consult the appropriate county agency for information on uses and construction in the Agricultural zone.

A buyer should understand that all development and use of the property shall be in compliance with County codes and ordinances, that owners in this condominium project will not necessarily receive the same County benefits as owners of approved subdivided lots and that owners who develop their limited common element later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations.

Improvement of the common driveway for unit 1 and unit 2, by paving with concrete, pursuant to contract with a licensed contractor is currently underway, and contracted for completion by March 1, 2004. All costs of completion of improvements has been paid in full. The contract with the licensed contractor is submitted herewith as Exhibit "J".

Purchasers should be aware that Chapter 205, Hawaii Revised Statutes (HRS), does not authorize residential dwellings as a permissible use in an agricultural use district, unless the dwelling is related to an agricultural activity or is a "farm dwelling".

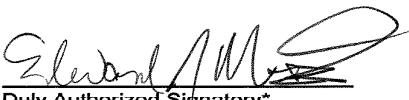
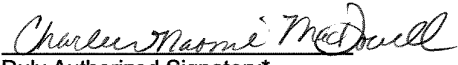
The term "farm dwelling" is defined in Chapter 205-4.5(a)(4), HRS, as a "single family dwelling located on and used in connection with a farm, including clusters of single-family farm dwelling permitted within agricultural parks developed by the State or where agricultural activity provides income to the family occupying the dwelling."

The penalty for violation of Chapter 205-4.5, HRS, is a fine of not more than \$5,000. If any person who is cited for a violation of the law fails to remove the violation within six months of such citation and the violation continues, such person is subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.

In order for any purchaser to obtain a building permit to construct a single family residential (farm dwelling), the County of Kauai will require the purchaser to sign a Farm Dwelling Agreement in the form attached hereto as Exhibit "K".

- D. The developer declares subject to the penalties set forth in Section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

EDWARD J. MACDOWELL and CHARLEEN NAOMI MACDOWELL
Printed Name of Developer

By: <u></u>	<u>1/15/04</u>
Duly Authorized Signatory*	Date
By: <u></u>	<u>1/15/04</u>
Duly Authorized Signatory*	Date

Distribution:

Department of Finance, COUNTY OF KAUAI

Planning Department, COUNTY OF KAUAI

***Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner, Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.**

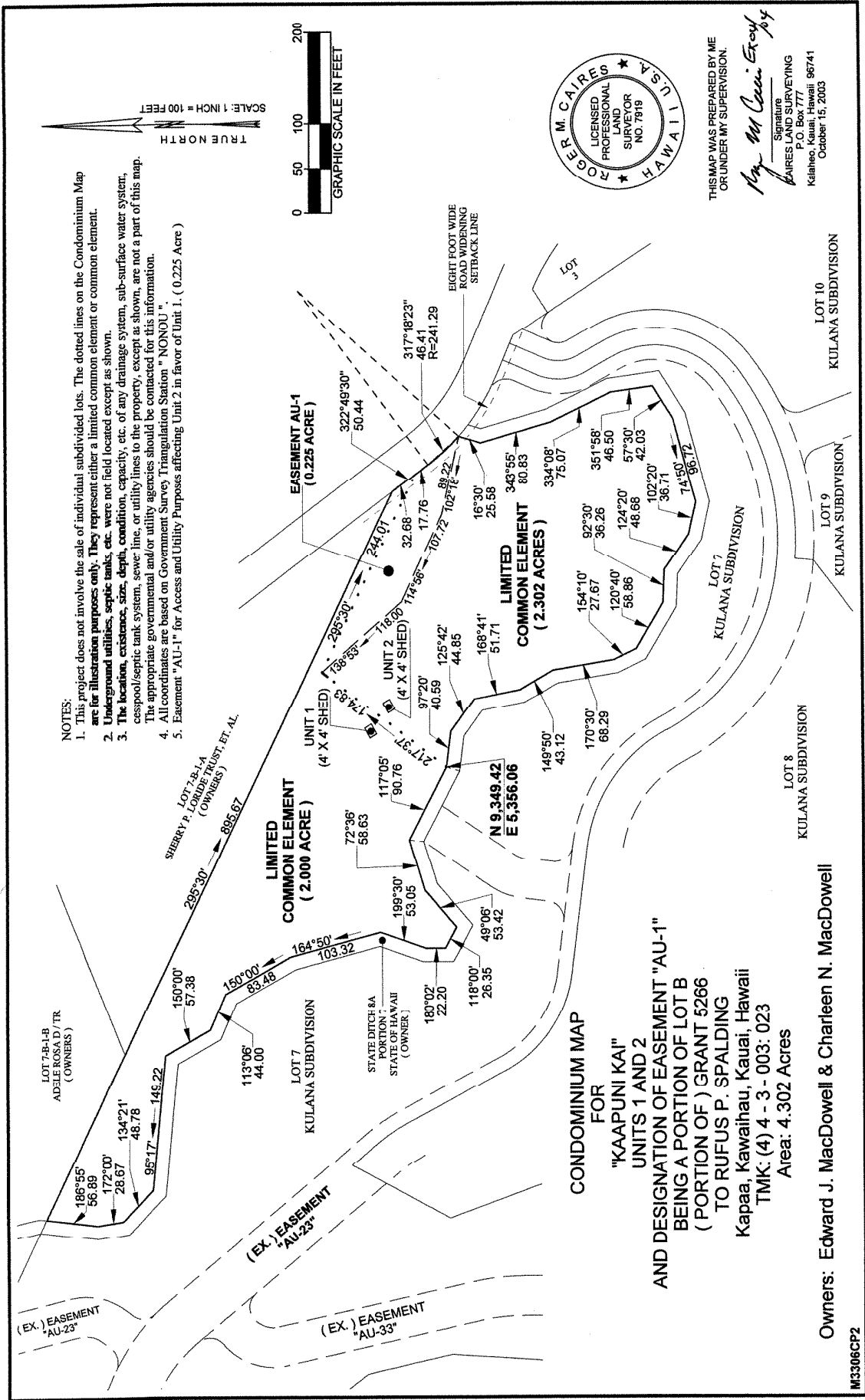


EXHIBIT "B"

SUMMARY OF SALES CONTRACT

This Project Utilized a Condominium Addendum to Sales Contract (the "Addendum") to be utilized in conjunction with a standard printed form contract provided by the Hawaii Association of Realtors. The Addendum protects the rights of the Purchasers and the handling of the funds under the Condominium Property Act (the "Act"), as well as the insuring compliance with the Act by all parties. Relevant portions of the Addendum are summarized as follows:

1. The fact that the Act controls over any portion of a contract to sell a condominium unit.
2. That an effective date for a final or supplementary public report must be in place and a receipt for the same signed by the buyer to have an effective date.
3. That all purchaser funds must be held in escrow until the law allows closing and disbursement of the funds.

The conditions precedent to release of the funds are enumerated, including in part:

- (a) That Purchaser will receive a copy of the final public report for the project.
- (b) Purchaser agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow agreement, and Purchaser is subject to all of the terms of the Escrow Agreement.
- (c) If there is a dual agency by a single broker, it will be disclosed in the contract.

SPECIAL NOTICE: THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL THE TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE PURCHASER'S RIGHTS AND OBLIGATIONS, THE PURCHASER MUST REFER TO THE PURCHASER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL AND NOT THIS SUMMARY.

'EXHIBIT "C"

SCHEDULE OF APARTMENTS AND COMMON INTERESTS

Qty.	Unit No.	Area of Limited Common Element* (Acres)	No. of Br./Bath	Appx. Net Living Area (Sq. Ft.)	Appx. Other Area (Sq. Ft.)	% of Common Int.
1	1	2.000	0	0	16 shade structure	50%
1	2	2.302	0	0	16 shade structure	50%

Pursuant to Section 16-107-5, Hawaii Administrative Rules, reference is hereby made to the method by which common interest has been computed. Units 1, 2, and 3 will burden the common elements in the approximate percentages as set forth in the common interest. Therefore, the assessment of undivided interest both for common expense and for voting is 50% for Unit 1, and 50% for Unit 2.

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use the unit, alter or add to it in any manner deemed desirable, so long as it is permitted by Law and not contrary to any other applicable project restrictions as may be determined to be applicable. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration of Condominium Property Regime together with their respective signatures.

*Note: Land areas referenced herein are not legally subdivided lots.

EXHIBIT "D"

SUMMARY OF PORTIONS OF ESCROW AGREEMENT KAAPUNI KAI

The Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC. (the "Escrow"), and EDWARD J. MACDOWELL and CHARLEEN NAOMI MACDOWELL, (the "Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.
2. Escrow will receive payments under the sales contract and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project. Interest on all funds will be paid to Seller.
3. Escrow will release from the trust fund and disburse Buyer's funds at closing, unless: (a) Buyer has elected within seven days of signing the sales contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the sales contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.
4. Escrow will return deposited sums to the Buyer without interest, if Seller and Buyer give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven-day right, no fees will be charged Buyer. Thereafter, in the event of a cancellation as a matter of agreement or right, Buyer's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not less than \$25.00.
5. Escrow will arrange for and supervise the signing of all documents, which are to be signed subsequent to and contemplated by the sales contract.
6. As Escrow's compensation for its performance under this Agreement, Escrow will receive its schedule rate for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents. The cost of title insurance will be an additional amount, based upon schedule rate.
7. In the event of default by the Buyer, Buyer may forfeit his or her deposit, which will be paid to the Seller, less any cancellation fees charged by Escrow.

SPECIAL NOTICE: THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, ONE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

EXHIBIT "E"

COMMON ELEMENTS OF THE PROJECT

The common elements of the project are:

- (a) the land in fee simple;
- (b) Easement "AU-1" is a drive way easement and utilities easement over Unit 2 in favor of Unit 1, and is an irregular shaped area, which is located in the south of the southern boundary of the flag portion of Unit 1 and is an area of 0.225 acre, as shown on the condominium map. The "AU-1 drive way and utilities easement may be used by both Unit 1 and Unit 2. The cost of maintenance and improvement of "AU-1" shall be shared equally with both Units utilizing it.
- (c) all commonly used present or future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone; and
- (d) any and all other future elements and facilities in common use or necessary to the Project.

LIMITED COMMON ELEMENTS OF THE PROJECT

Certain parts of the common elements, referred to as the "limited common elements," have been designated and set aside for the exclusive use of one or more units, and such unit(s) have appurtenant exclusive easements for the use of such limited common elements. The limited common elements set aside, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is that certain land area upon and around which Units 1 and 2 are located, shown and designated on the Condominium Map and the table below.

Unit Number	Area of Limited Common Element*
Unit 1	2.000 Acres
Unit 2	2.302 Acres

*Land areas referenced herein are not legally subdivided lots.

END OF EXHIBIT "E"

EXHIBIT "F"

ENCUMBRANCES AGAINST TITLE

THE FOLLOWING ENCUMBRANCES APPLY TO ALL UNITS:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Mortgage dated July 31, 2003, Recorded in the Bureau of Conveyances as Document No. 2003-162515.
3. Easement in favor of GTE HAWAIIAN TELEPHONE COMPANY, INCORPORATED, now known as VERIZON HAWAII, INC., recorded in the Bureau of Conveyances at Liber 11015 Page 529.
4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Deed, Recorded in the Bureau of Conveyances as Document No. 99-082059.
5. Easement Dated May 21, 1999, Recorded at the Bureau of Conveyances as Document No. 99-082060.
6. Easement Dated August 1, 2002, Recorded at the Bureau of Conveyances as Document No. 2002-148166.
7. Easement Dated August 1, 2002, Recorded at the Bureau of Conveyances as Document No. 2002-148167.
8. For Real Property Taxes that may be due and owing reference is made to the Department of Taxation, County of Kauai.
9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:
 - a. Declaration of Condominium Property Regime For Kaapuni Kai Condominium Project, dated November 14, 2003, recorded in the Bureau of Conveyances as Document No. 2003-263218
 - b. By-laws of the Association of Apartment Owners dated November 14, 2003, recorded in the Bureau of Conveyances as Document No. 2003-263219
 - c. Condominium Map No. 3676, recorded in the Bureau of Conveyances as Document No. 2003-263218, and any amendments thereto.
10. Exceptions and reservation of roads and trails as set forth in Land Patent Grant No. 5266 to Rufus P. Spaulding, dated April 14, 1910.

EXHIBIT "G"

DISCLOSURE ABSTRACT

Pursuant to Hawaii Revised Statutes, Section 514(A)-61, the Developer of KAAPUNI KAI makes the following disclosures:

1. The Developer of the project is EDWARD J. MACDOWELL and CHARLEEN NAOMI MACDOWELL, P.O. Box 29, Kapaa, Hawaii 96746 , telephone (808) 822-4444.

2. The Developer has omitted Exhibit "H" from because Developer represents that there are no projected annual maintenance fees.

3. There are no warranties against defects of material and workmanship in individual apartments, common elements or exclusive use areas, and the purchaser buys his/her unit in an "as is" condition

4. All of the apartments of the project are to be used for agricultural and permitted residential purposes only. No apartments shall be used for hotel or timeshare purposes. There will be no commercial use except those activities permitted by county ordinance.

5. The Developer has not conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. There are no depreciable common elements in the Project.

7. The Developer discloses Common Interest has been divided as shown: Unit 1 – 50% and Unit 2 – 50%.


EDWARD J. MACDOWELL, Developer

1/15/04
Date


CHARLEEN NAOMI MACDOWELL, Developer

1/15/04
Date

RECEIPT

The undersigned has received a copy of the foregoing Disclosure Abstract this ____ day of _____, 20____.

Purchaser(s): _____

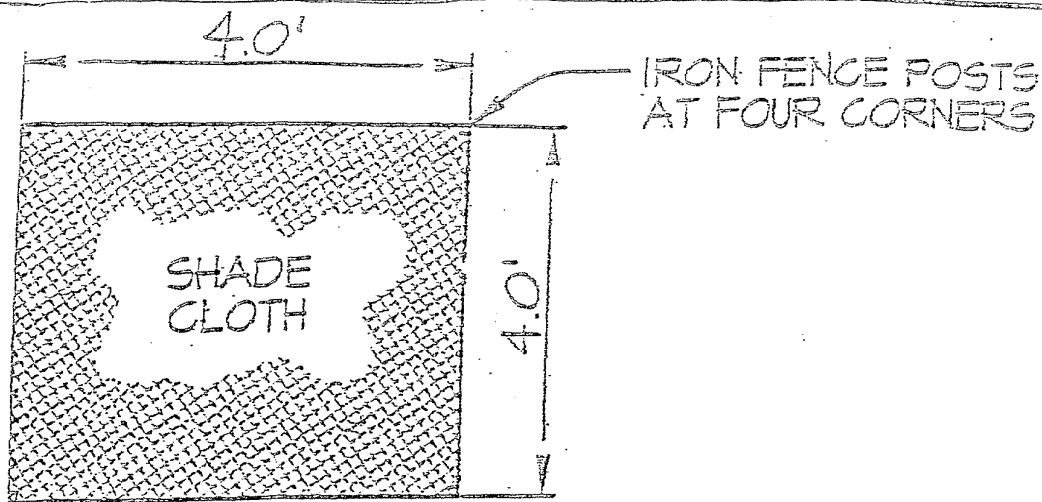
STATE OF HAWAII)
) SS
COUNTY OF KAUAI)

12/14

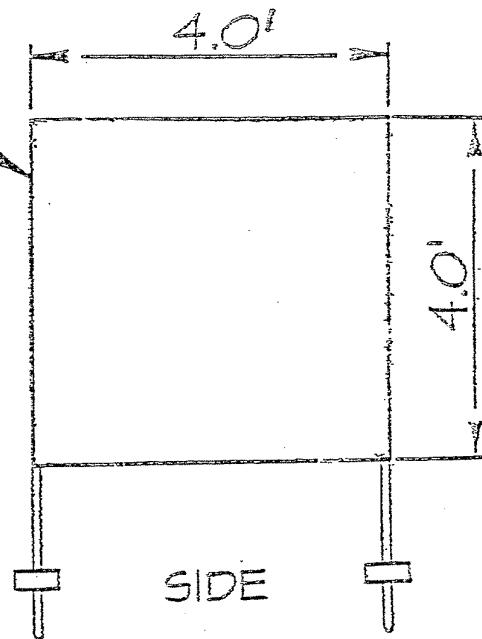
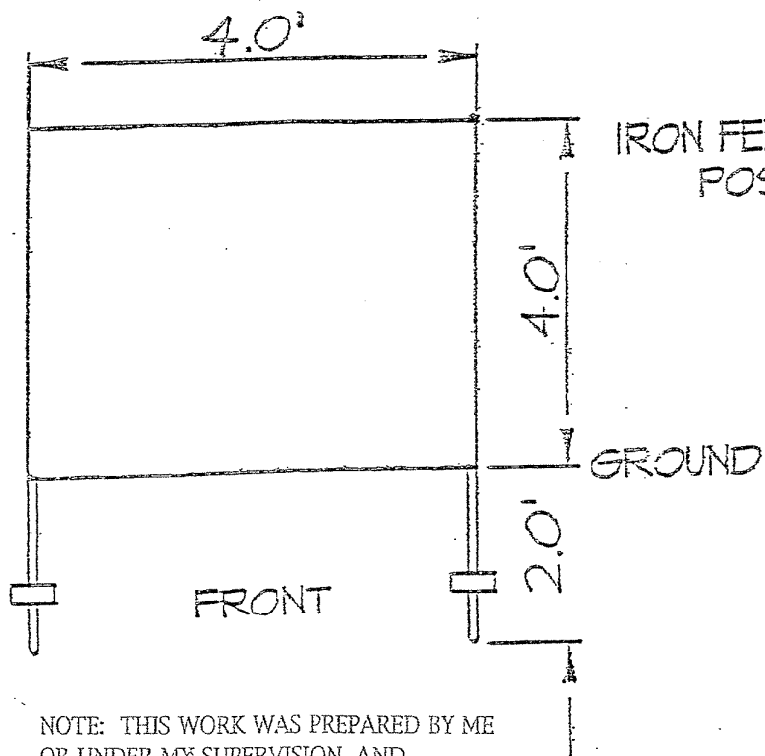
Subscribed and sworn to before me this 12 day of NOVEMBER,
2003.

2003. *Sle. Kadaw*
Seyfudin KAWADAN

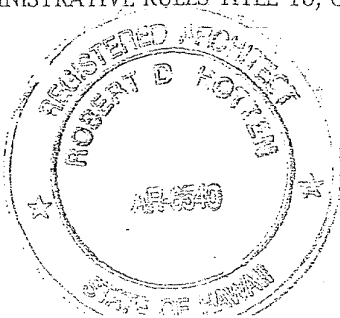
The seal of the National Association of Manufacturers (NAM) is a circular emblem. It features a central shield with a balance scale and a gear. The shield is surrounded by a wreath. The outer ring of the seal contains the text "NATIONAL ASSOCIATION OF MANUFACTURERS" at the top and "1912" at the bottom. The seal is rendered in a high-contrast, black and white style.



PLAN



NOTE: THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION, AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION. (SUPERVISION OF CONSTRUCTION AS DEFINED BY HAWAII ADMINISTRATIVE RULES TITLE 16, CH 82.)

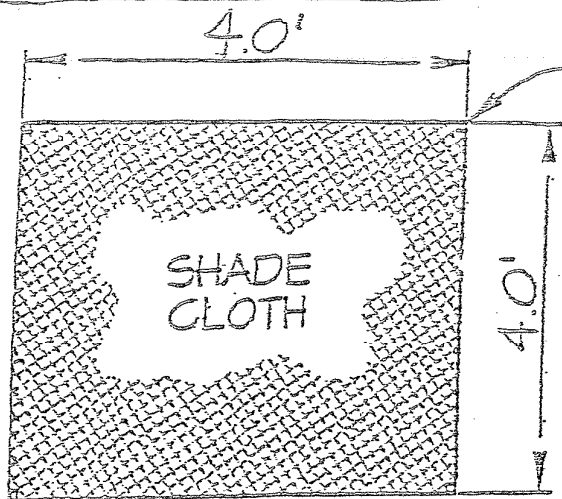


FLOOR PLAN AND ELEVATIONS

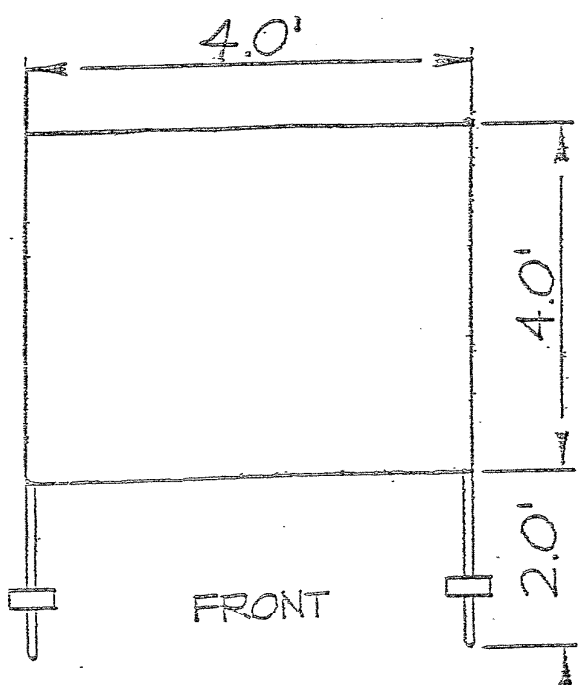
SHADE STRUCTURE

Pg. 1.1

WORK SPEC FOR (KAPUNI BIOLIT)
 CHARLES & EDWARD PROPOSED
 KAPUNI, HAWAII



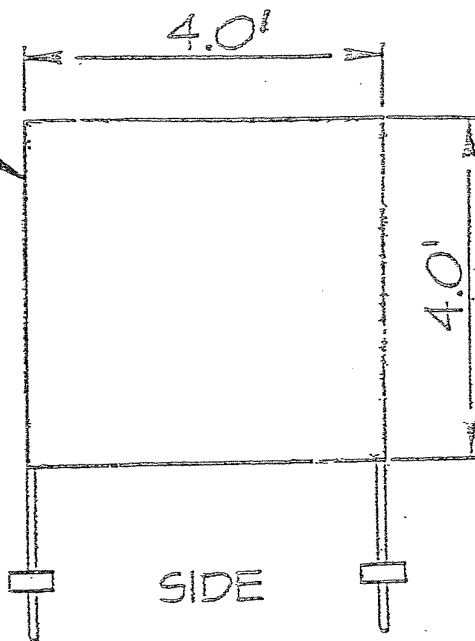
PLAN



IRON FENCE POSTS

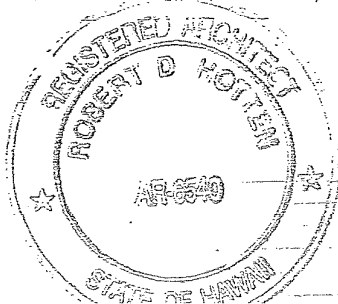
GROUND

FRONT



SIDE

NOTE: THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION, AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION. (SUPERVISION OF CONSTRUCTION AS DEFINED BY HAWAII ADMINISTRATIVE RULES TITLE 16, CH 82.)



FLOOR PLAN AND ELEVATIONS

SHADE STRUCTURE

P4. 1.2

CPR SHED FOR (KAPUNI KA, UNIT 2)
CHARLEEN E EDWARD PROGRESS
KAPUNI, KAPAA

Us Guys Builders, LLC.

3385 Unaha Street - Lihue, Kauai, Hawaii 96786
Telephone 1-808-246-7788 Fax 1-808-246-0131 e-mail: usguys@hawaiian.net
Hawaii General Engineer & Building Contractor License ABC#21795/ABC#12173

CONSTRUCTION CONTRACT

This agreement made as of the 12th day of December in the year of 2003 between:
Edward J. MacDowell & Charleen MacDowell hereinafter referred to as "Owner", and Us Guys
Builders, LLC.. hereinafter referred to as "Contractor",

WITNESSETH:

That for and in consideration of the payments hereinafter mentioned, Contractor hereby
covenants and agrees with Owner to furnish and pay for all materials, and all labor, equipment,
water, power, and all other items necessary for the completion of:

Project site:

Kaapuni Kai TMK (4)-4-3-3-23 Kapaa, Kauai, Hawaii

Contractor to install driveway 15' X 150' 4" thick with 6X6X10 galvanized wire mesh, 2,500
P.S.I. redi-mixed concrete with medium broom finish and construction joints every 20'.
Contractor to supply all necessary grading, forms and labor.

LUMP SUM BID.....\$28,456.00.....

Payment # 1: when contract accepted \$16,456.00

Payment # 2: when all work completed and accepted by Owner...\$10,000.00

In accordance with the Plans and Specifications which are identified by the signatures of the parties
hereto, and to complete the same within 30 calendar days from date authorized to commence,
subject however, to strikes, riots, fires, unavailability of materials, extreme stress of weather, acts of
God or the public enemies, or other conditions beyond the control of Contractor. March 15, 2002 is
scheduled completion date.

Based upon Applications for Payment and Invoices submitted to the Owner by the
Contractor for work performed the Owner shall make progress payments on account of the
Contract sum to the Contractor as provided in the Contract Documents for the period ending
the last day of the period covered in the Application for Payment. Progress Payments shall
be due upon receipt of Applications for Payments and shall be negotiable for immediate
credit.

1. **THE CONTRACT:** This instrument, together with the Plans, Specifications, and
any supplemental instruments, which are identified by the signatures of the Owner and the
Contractor, shall comprise the Contract. Said documents are complementary and whatever is
specified in any one document shall be binding as if specified in all. In case of conflict between the
Plans, Specifications and Us Guys Builders, LLC. Job Cost Sheet the Us Guys Job Cost Sheet shall
determine actual fact.

EXHIBIT "I"

RF 12/12/03

2. BOND: Before commencing work, Contractor [] shall [XXX] shall not furnish a performance and payment bond in an amount equal to one hundred per cent (100%) of the contract price. See disclosure statement.

3. MATERIALS AND WORKMANSHIP: Unless otherwise specified, all materials shall be new as specified, and both workmanship and materials shall be of good quality. All structural lumber shall be pressure treated. Hi-bor wood treatment does not require lumber cuttings to be dipped (see warranty)

4. PERMITS: NO PERMITS REQUIRED

5. SURVEY: The Owner shall furnish a survey of the property adequate for the proper performance of the work.

6. SERVICE CONNECTIONS: NONE

7. INSPECTION: The Contractor shall permit and facilitate inspection of the work at all times by the Owner, lender, and their agents, and governmental authorities.

8. TERMINATION OF CONTRACT BY OWNER: Should the Contractor neglect to prosecute the work properly, or fail to perform any provision of the Contract, the Owner, after ten (10) days written notice to the [X] Contractor [] Contractor and Surety may, without prejudice to any other remedy he may have, make good the deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor, and if the unpaid balance of the contract price exceeds the expense of finishing the work, such excess shall be paid to the Contractor, but if such expense exceeds such unpaid balance, the Contractor shall pay the difference to the Owner.

9. TERMINATION OF CONTRACT BY CONTRACTOR: Should the work be stopped by any public authority for a period of sixty (60) days or more, through no fault of the Contractor, or should the work be stopped through act or neglect of the Owner for a period of ten (10) days, or should the Owner fail to pay the Contractor any payment within ten (10) days after it is due, then the Contractor upon ten (10) days written notice to the Owner, may stop work or terminate the contract and recover from the Owner payment for all work executed and any loss sustained and reasonable profit and damages.

10. FIRE INSURANCE: Owner shall maintain insurance against loss or damage by fire, including extended coverage, from the commencement of and during the progress of the work, to cover all work incorporated in the building and all materials on or about the premises to the extent of one hundred per cent (100%) of the insurable value thereof.

11. LIABILITY AND WORKMEN'S COMPENSATION INSURANCE: The Contractor shall maintain such insurance with adequate limits as will protect him from claims under workmen's compensation acts, and from claims for damages because of bodily injury, including death, which may arise both out of and during operations under this contract, whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them.

12. OTHER INSURANCE BY OWNER: The Owner shall be responsible for and at his option may maintain such insurance as will protect him from his contingent liability to others for damages because of bodily injury including death, which may arise from operations under this contract, and he may also maintain insurance on his behalf against liability for damages which the Contractor is required to insure under any provision of this contract.

PAID

RAB 9/12/02

13. **CHANGES BY OWNER:** The Owner may order changes in the work provided, however, that the Owner and the contractor agree to the cost to be charged therefore. All such orders and adjustments shall be in writing, and no claim by the Contractor for extra costs shall be made unless the work performed, which is the basis for the extra cost, is ordered by the Owner in writing prior to the performance of the work.

14. **PAYMENTS:** Payments shall be made as herein above provided. The making and acceptance of the final payment shall constitute a waiver of all claims by the Owner, other than those arising from unsettled liens or from faulty work or defective materials, written notice of which are given the contractor within a period of one (1) year thereafter, and of all claims by the Contractor except any previously made in writing and still unsettled. Payments otherwise due may be withheld on account of defective work or materials not remedied, liens filed, damage by the Contractor to others not adjusted, or failure to make payments properly to subcontractors or for material or labor, but such sum withheld shall not exceed a sum which shall reasonably provide for such costs and expenses.

15. **OCCUPANCY:** none.

16. **REGULATIONS GOVERNING WORK:** all ordinances of the County of Kauai Building Department, the rules and regulations of the State Board of Health and The Safety Division of the State Labor and Industrial Relations Department govern every phase of this work and are considered an integral part of this contract, NO PERMITS REQUIRED.

17. **CLEANING:** n/a

18. **DISPUTES:** In the event of a dispute both parties agree to utilize mediation first by a neutral mediator agreed upon by both parties. If mediation fails then all disputes arising hereunder shall be submitted to the licensed architect, if any superintending said construction, and if none then to the material company which may be surety on the bond: provided, however, that the architect's decision or the decision of the material company, as the case may be, shall be subject to arbitration if notice thereof is given by either party in writing within ten (10) days of the date decision. If there shall be no architect or material house, then all decisions shall be submitted to arbitration. Any disputes over the meaning, intent, and enforcement of this contract shall be resolved by binding arbitration. Unless the parties otherwise agree in writing, the Commercial Rules of the American Arbitration Association then in effect shall govern the course of the arbitration. The arbitration shall go before a single arbitrator, who shall be jointly selected, or if the parties cannot agree, an arbitrator selected by the American Arbitration Association. The fees charged by the arbitrator or the American Arbitration Association shall be paid initially by the party making the demand for arbitration. However, the ultimate responsibility for such costs and the attorney fees incurred by the parties, if any, shall be determined by the arbitrator. Any award in arbitration shall have the force of law, and shall be enforceable as a judgment before any Court of competent jurisdiction, as provided by Hawaii Revised Statute.

19. **COSTS OF COLLECTION:** In case suit is instituted on this Contract, the prevailing party shall receive from the adverse party reasonable attorneys' fees, or, if this Contract is placed in the hands of a licensed collector by the Contractor or surety for collection, the Owner agrees to pay twenty-five per cent (25%) of the amount then unpaid hereon as and for a collection fee, and/or attorney's fees.

20. Us Guys Builders, LLC. hours of operation are 7:30 A.M. through 4:30 P.M. Monday through Friday. Our offices are closed Saturday, Sunday and all holidays.

PAID

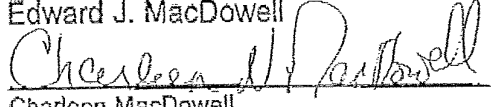
9/12/03

This Contract is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

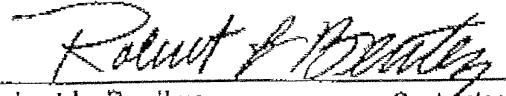
DATED: Kauai, Hawaii, this 12th day of September, 2003.


Owner

Edward J. MacDowell


Owner

Charleen MacDowell


Contractor
Robert L. Bentley
Us Guys Builders, LLC.

PAID

EXHIBIT "J"

*****FOR ILLUSTRATION ONLY*****



AFTER RECORDATION RETURN BY MAIL TO:

COUNTY OF KAUAI
Planning Department
Building A, Suite 473
4444 Rice Street
Lihue, HI 96766

Document contains ____ pages

FARM DWELLING AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____,
20____, by and between _____,
_____, whose residence and post office address
is _____,
_____, hereinafter called the "APPLICANT(S)", and the COUNTY OF
KAUAI, Planning Department, its business and mailing address being 4444 Rice street, Building
A, Suite 473, Lihue, Hawaii 96766, hereinafter called the "DEPARTMENT".

WITNESSETH:

WHEREAS, the APPLICANT(S) warrant and represent that he/she/they is/are the
_____ of that certain parcel of land, Tax Map Key No. (4) _____,
more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, this document pertains only to Unit(s) _____ as shown in Exhibit "B" and
made a part hereof; and

WHEREAS, that certain parcel of land is classified Agriculture by the State Land Use commission and is zoned Agriculture by the County of Kauai; and

WHEREAS, Chapter 205, Hawaii Revised Statutes, and the state Land Use District Regulations only permit "farm dwellings" within the State Agriculture Land Use District unless otherwise relieved from the restriction by a special permit obtained pursuant to Chapter 205, Section 6, Hawaii Revised Statutes; and

WHEREAS, a "farm dwelling" is defined by Chapter 205, Hawaii Revised Statutes, and the State Land Use District Regulations as "a single family dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling"; and

WHEREAS, the parcel identified by Tax Map Key No. (4) _____, is entitled to _____ residential units (and one guest house); and

WHEREAS, this Agreement is evidenced that _____ is entitled to one of those residential units; and

WHEREAS, a "family" as used in the definition of "farm dwelling" is defined by the State Land Use District Regulations as "an individual or two or more persons related by blood, marriage or adoption or a group comprising not more than five persons, not related by blood, marriage or by adoption"; and

WHEREAS, the APPLICANT(S) acknowledge that a violation of Chapter 205, Hawaii Revised Statutes, and the state Land Use District restriction is subject to a citation and fine of not more than \$5,000 pursuant to Chapter 205, Section 13, Hawaii Revised Statutes, as amended; and

WHEREAS, the APPLICANT(S) also acknowledge that failure to abide by this Agreement may result in the removal of the prohibited structure at the owner's expense; and

WHEREAS, the DEPARTMENT is charged with the enforcement of the restriction by Chapter 205, Hawaii Revised Statutes; and

WHEREAS, the APPLICANT(S) wish to construct a dwelling unit on that certain parcel of land describe in Exhibit A; and

WHEREAS, the APPLICANT(S) wish to execute this Farm Dwelling Agreement without first obtaining the signatures of all interest holders in the CPR;

NOW, THEREFORE, for and in consideration of the terms, covenants and conditions hereinafter contained, the parties hereby mutually agree as follows:

1. That the dwelling permitted to be constructed on the parcel of land described in Exhibit "A" classified Agriculture by the State Land Use Commission shall be a "farm dwelling"

as defined by Chapter 205, Hawaii Revised Statutes, and the State Land Use District regulations, as recited herein; and

2. That the dwelling shall only be occupied by a “family”, as defined by the State Land Use District regulations and as recited herein, who derive income from the agricultural activity on the parcel; and

3. That the APPLICANT(S) and all present and future owners, lessees and occupants of said land grant the DEPARTMENT the right of entry at the request of the DEPARTMENT to inspect the premises to assure compliance with the provisions of this Agreement; and

4. That this Agreement shall be a covenant running with the land and be binding on the APPLICANT(S), and all present and future owners, lessees and occupants of said land and anyone claiming under said APPLICANT(S), their heirs, executors, administrators, successors and assigns, as owners or occupants thereof or otherwise; and

5. That this Agreement shall remain in effect so long as the land retains its Agriculture District classification under the State Land Use Commission and the pertinent restrictive provisions of Chapter 205, Hawaii Revised Statutes, and the State Land Use District regulations remain in effect; and

6. That the APPLICANT(S) expressly set forth the provisions of this Agreement in any subsequent conveyance, deed, lease or rental agreement to said property executed by them, so as to give effect to said covenant; and

7. That this Agreement shall be recorded with the State of Hawaii Bureau of Conveyances, fees to be paid by the APPLICANT(S); and

8. The DEPARTMENT and APPLICANT(S) shall execute the Farm Dwelling Agreement; and

9. The APPLICANT(S), for themselves (himself, herself), their (his/her) heirs, administrators, successors and assigns, do hereby waive and release the DEPARTMENT and the County of Kauai, a political subdivision of the State of Hawaii, whose principle place of business is 4444 Rice Street, Suite 473, Lihue, Hawaii 96766, from all claims and causes of action, either legal or equitable, which may hereafter accrue by reason of the DEPARTMENT'S execution of said Farm Dwelling Agreement; and

10. The APPLICANT(S) do(es) hereby promise to indemnify and hold the DEPARTMENT and the County of Kauai, its successors, assigns, offices, employees, agents, attorneys or any other person or legal entity connected with or legally responsible to them, harmless from any and all claims, actions, causes of action, lawsuits, demands or liability for damages of whatever kind and nature, arising out of the DEPARTMENT'S execution of said Farm Dwelling Agreement; and

11. This agreement shall be a covenant running with the portion of land described in Exhibit "A," and shall be binding on APPLICANT(S) and all present and future owners and occupants of said portion of land and any one claiming under APPLICANT(S), their successors and assigns, as owners or occupants thereof. The APPLICANT(S) further agree(s) to expressly set forth the provisions of this waiver and indemnity agreement in any subsequent conveyance, deed, lease, or rental agreement so as to give effect to said covenant.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the ____ day of _____, 20__.

APPROVED:

APPLICANT(S)

Planning Director

APPROVED AS TO FORM AND
LEGALITY:

County Attorney

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this ____ day of _____, 20__, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, State of Hawaii

Print Name: _____

My commission expires: _____

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this ____ day of _____, 20____, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, State of Hawaii
Print Name: _____
My commission expires: _____

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this day of _____, 20____, before me appeared _____ to me personally known, who being by me duly sworn, did say that (s)he is the _____ of the PLANNING DEPARTMENT of the COUNTY OF KAUAI; and that said instrument was executed on behalf of said PLANNING DEPARTMENT; and that said _____ acknowledged that (s)he executed the same as his/her free act and deed of the PLANNING DEPARTMENT of the COUNTY OF KAUAI. Said Department has no seal.

NOTARY PUBLIC, State of Hawaii
Print Name: _____
My commission expires: _____

END OF EXHIBIT "J"

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this day of _____, 20____, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC, State of Hawaii
Print Name: _____
My commission expires: _____

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this day of _____, 20____, before me appeared _____ to me personally known, who being by me duly sworn, did say that (s)he is the _____ of the PLANNING DEPARTMENT of the COUNTY OF KAUAI; and that said instrument was executed on behalf of said PLANNING DEPARTMENT; and that said _____ acknowledged that (s)he executed the same as his/her free act and deed of the PLANNING DEPARTMENT of the COUNTY OF KAUAI. Said Department has no seal.

NOTARY PUBLIC, State of Hawaii
Print Name: _____
My commission expires: _____

END OF EXHIBIT "J"